

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:FIP:5

PLR-140577-08

Date:

December 02, 2008

### LEGEND:

School =

State =

City =

Year =

a =

Dear :

This is in response to your request for a ruling that bonds issued by School will be considered issued on behalf of a state or political subdivision thereof for purposes of § 103 of the Internal Revenue Code.

### **Facts and Representations**

School was created by the State legislature in Year as a public, residential magnet school for the purpose of providing high-achieving high school students with a challenging educational experience. School is a body politic and corporate and an agency of State.

School is governed by a 19 member Board of Trustees (the "Board"). The Board consists of the Commissioner of Education, the Chancellor of State's University System,

the chair of the City School Board, one student of School, School's superintendent, one teacher elected by School's faculty, and 13 members of the general public appointed by the Governor of State (the "Governor"). The members of the Board may be removed for cause by the Governor. The members of the Board are not compensated, except for reimbursement of expenses.

The Board is authorized to borrow funds, issue bonds, and negotiate notes and other evidences of indebtedness or obligations for renovation and construction purposes so long as School's indebtedness does not at any one time exceed \$a. Bonds, notes, or other evidences of indebtedness or obligations of School are legal obligations of School on behalf of State and are payable solely from School's revenues and other sources of funds. The net earnings of School may not inure to the benefit of any private person. If School is dissolved, the distribution of all property owned by School must be determined by the State legislature and may not inure to the benefit of any private person.

### **Law and Analysis**

Section 103(a) provides that gross income does not include interest on any State or local bond.

Section 1.103-1(a) of the Income Tax Regulations provides, in part, that interest upon obligations of a State, territory, possession of the United States, the District of Columbia, or any political subdivision thereof (hereinafter collectively or individually called "State or local government unit") is not includable in gross income.

Section 1.103-1(b) provides, in part, that an obligation issued by or on behalf of any governmental unit by a constituted authority empowered to issue such an obligation is the obligation of such a unit.

Revenue Ruling 57-187, 1957-1 C.B. 65, holds that bonds issued by an industrial development board (the "entity") are considered issued on behalf of a political subdivision of the state where the following conditions are present: (1) the issuance of bonds must be authorized by a specific state statute; (2) the bond issuance must have a public purpose; (3) the governing body of the entity must be controlled by the political subdivision; (4) the entity must have the power to acquire, lease, and sell property and issue bonds in furtherance of its purposes; (5) earnings cannot inure to the benefit of private persons; and (6) upon dissolution, title to all bond-financed property must revert to the political subdivision.

Applying the criteria of Rev. Rul. 57-187 to the facts as represented, we conclude that School qualifies as an "on behalf of issuer" for purposes of § 1.103-1(b). School was created by act of the State legislature as a public, residential school. The Board is controlled by the Governor through his appointment of the majority of its members and his ability to remove them all for cause. Board members are not compensated, except

for reimbursement of expenses. School may issue bonds in furtherance of the purpose for which it is established, which is a public purpose. No part of School's net earnings may inure to any private person's benefit and if School is dissolved, all property owned by School would become State property.

### **Conclusion**

Based on the information submitted and representations made, we conclude that bonds issued by School will be treated as issued on behalf of State for purposes of § 103.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with a Power of Attorney on file with this office, a copy of this letter is being sent to the authorized representative of School.

The ruling contained in this letter is based upon information and representations submitted by School and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the materials submitted in support of the request for a ruling, it is subject to verification upon examination.

Sincerely,

Associate Chief Counsel  
(Financial Institutions and Products)

By: \_\_\_\_\_  
Timothy L. Jones  
Senior Counsel  
Branch 5